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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,116	10/21/2003	Karl Burgess	C4273(C)	5360

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EXAMINER

O MALLEY, KATHRYN S

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,116

Applicant(s)

BURGESS ET AL

Examiner

Kathryn S. O'Malley

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 24 January 2005, with respect to the rejection(s) of claim(s) 1-22 in view of Compa et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Compa et al. and Miller.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,701,202 to Compa et al. and US Patent 5,791,801 to Miller.

4. Compa et al. teaches a method and apparatus for treating fabrics comprising a device 20 for attachment onto the inside of a dryer drum 34 comprising a reservoir 22 for holding a fabric conditioning liquid, inner flow control members 30, and transfer member 84 for transferring the conditioning liquid onto fabrics being rotated inside the drum 34. Transfer member 84 is polyurethane foam. Note column 3, lines 12-26 and Figures 4 and 9. Compa does not teach using compressed polyurethane foam. Miller teaches a similar element for transferring a liquid from a reservoir to an application point comprising compressed polyurethane foam. Note column 3, line 64- column 4, line 16.

As Miller teaches that a polyurethane foam that is "permanently compressed to a predetermined thickness" is ideal for "regulating the rate of fluid release from the applicator," it would have been obvious to one of ordinary skill in the art to modify the foam applicator of Compa et al. with the compressed foam applicator of Miller.

Regarding claim 5, Compa et al., as modified by Miller, does not teach polyester foam. However, such a modification would have been obvious to one of ordinary skill in the art since both Compa et al. and Miller teach that a variety of foams can be used (note Compa et al. column 3, line 15 and Miller column 4, lines 10-16) and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Regarding claims 6-14, Compa et al., as modified by Miller, does not teach the exact pore sizes and compression ratios presently claimed. However, such limitations would have been obvious to one of ordinary skill in the art since Miller teaches that a variety of compressed foams can be used and it has been held in the art that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

5. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Compa et al. and Miller as applied to claim 1 above, and further in view of US Patent 5,072,526 to Hirota et al.

6. Compa et al., as modified by Miller, does not teach placing his treatment device on the door of the drying machine. Hirota et al. teaches a similar treating method

comprising porous conditioning dispenser 39 attached to door 5. Note column 3, lines 51-59 and Figures 1 and 5a. As Hirota et al. teaches that a porous conditioning dispenser will be more securely placed when attached to the door of a drying machine, it would have been obvious to one of ordinary skill in the art to place the dispenser of Compa et al. on the door of the dryer as taught by Hirota et al. Regarding the temperatures of claims 17 and 18, Compa et al., as modified by Miller and Hirota et al., does not define the temperature of the air used for drying. However, such claim limitations would have been obvious to one of ordinary skill in the art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (571)272-4879. The examiner can normally be reached on M-F (9:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3749

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO


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SUPERVISORY PATENT EXAMINER
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